



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,872	06/11/2001	Frank A. Ferraro	129-3	2642

7590

01/17/2003

Daniel P. Burke, Esq.
Galgano & Burke
Suite 135
300 Rabro Drive
Hauppauge, NY 11788

EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 01/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/878,872

Applicant(s)

FERRARO ET AL.

Examiner

Hanh V. Tran

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) 49 and 50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 and 51-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 & 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3637

DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application in response to applicant's election of Species I.

Election/Restrictions

2. Claims 49-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Specification

3. The abstract of the disclosure is objected to because it includes the term "invention". Correction is required. See MPEP § 608.01(b).
4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 16-18, 74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 16 and 17, the recitation of "comprising support ribs" renders

Art Unit: 3637

the claims indefinite for failing to clearly define whether theses support ribs are the same or different from the ribs recited in claim 13. Claim 74, since it is currently depending on claim 1, the term "said compartments" lacks antecedent basis.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

8. Claims 1-2, 7, 13-17, 19, 21-22, 28, 32-34, 42-44, 52-53, 57, 75, and 79 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2002/0093272 to Saravis.

Saravis discloses a moving cart assembly comprising all the elements recited in the above listed claims including, such as shown in Fig 5A, a plurality of interlocking vertically stackable storage modules forming a moving cart, each module comprising a frame, drawer and door for enclosing the interior of the module, wheels 530 to facilitate movement of the cart assembly, vertically-aligned support ribs, such as shown in Fig 2A, located on at least one external and internal vertical surface of the frame, a plurality of receptacles 324 and protrusions 323, such as shown in Fig 3B, means 323/324 for securing a plurality of said modules together.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3637

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 3-6, 8-10, 18, 20, 31, 45-48, 54-56, 58-60, and 80-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saravis.

Saravis discloses all the elements as discussed above except for the enclosing means having a pair of doors, instead of just one as disclosed, the doors are supported by hinges located either inside or outside the enclosure, the door having an identification slot, the drawer having rails spaced to support at least two different sizes of hanging files, the support ribs are vertically tapered, the frames are vertically tapered, the drawer modules having an inside height of at least 11 inches, cabinet modules each having an inside height of at least 20 inches, the assembly comprises high density polyethylene structural foam, or polypropylene structural foam, or a structural foam plastic.

In regard to the enclosing means having a pair of doors, it would have been obvious and well within the level of one skill in the art to replace the single of Saravis with a double doors so that the doors occupy less space in front of the cabinet when open. In regard to the doors being supported by hinges located either inside or outside of the enclosure, it would

Art Unit: 3637

have been obvious to modify the hinge structure of Saravis such that the doors being supported by hinges located either inside or outside of the enclosure depending on the user's desired, since both types of hinges would perform equally as well. In regard to door having an identification slot, it would have been obvious and well within the level of one skill in the art to provide the door with an identification slot such that the content stored therein can be easily identified. In regard to the drawer having rails spaced to support at least two different sizes of hanging files, it would have been obvious to provide the drawer of Saravis with rails spaced in order to support files therein. In regard to the support ribs are vertically tapered and the frames are vertically tapered, it would have been an obvious matter of design choice to provide the support ribs and the frames being vertically tapered, since applicant has not disclosed the criticality of having the ribs and frames being tapered, and it appears that the ribs and frames of Saravis would perform equally as well. In regard to the drawer modules having an inside height of at least 11 inches, cabinet modules each having an inside height of at least 20 inches, the assembly comprises high density polyethylene structural foam, or polypropylene structural foam, or a structural foam plastic, it would have been an obvious matter of design choice and well within the level of one skill in the art to provide the drawer, and the cabinet at any specific dimension for its intended purpose, and the assembly at any one of the above listed material, since said listed material are well known for its intended usage and are commercially available products.

12. Claims 1, 7, 10, 21-30, 32-33, 37-41, 47-48, 51-52, 57, 60, 74, 78-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,436,355 to Fortune in view of Saravis.

Fortune discloses a modular assembly comprising all the elements recited in the above listed claims including a plurality of interlocking vertically stackable storage modules, each

Art Unit: 3637

module having a frame, drawer means for enclosing the interior of each of the modules to form a plurality of enclosure, said modules comprising a plurality of receptacles and protrusions, such that adjacent modules are vertically interconnected with a protrusion from one module received in a corresponding receptacle of an adjacent module, means for securing the modules comprising an elongated member 82 which passes vertically through portions of modules or of all modules of a cart, the securing means comprising a plurality of tie-rods 82, means for locking the drawer enclosing means, such as shown in Fig 8, the frame being an integrally molded element of a plastic material. The only different being that Fortune does not disclose wheels attached to the cart to facilitate movement of the cart.

Saravis discloses moving cart assembly having wheels provided at the base in order to facilitate movement of the cart assembly. Therefore, it would have been obvious to modify the structure of Fortune by providing the base with wheels in order to facilitate movement of the cart assembly, as taught by Saravis, since both teach alternate conventional storage cabinet structure, classify in the same U.S. Classification, thereby providing structure as claimed.

13. Claims 1, 10-12, 32-36, 52, 60-73, and 76-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,992,953 to Rabinovitz in view of Saravis.

Rabinovitz discloses all the elements recited in the above listed claims including a plurality of interlocking vertically stackable storage modules, each having a frame, means for enclosing the interior of each module, a plurality of connectable carts and means for selectively connecting the carts, wherein the connecting means comprises a retractable hitch 160, such as shown in Fig 1, on each cart, a base having means for connecting a cart to another cart, such as shown in Fig 18, with said means being a plurality of retractable hitches. The differences being

Art Unit: 3637

that Rabinovitz does not disclose wheels, vertically tapered support ribs on the inside and outside surfaces of the sides, tapered frames.

Saravis discloses a cart assembly having wheels provided to the base in order to facilitate movement of the cart assembly, vertically extending support ribs on the inside and outside surfaces of the sides in order to increase the overall strength of the frames. Therefore, it would have been obvious to modify the structure of Rabinovitz by providing wheels to the base in order to facilitate movement of the cart assembly, and vertically extending support ribs on the inside and outside surfaces of the sides in order to increase the overall strength of the frames, as taught by Saravis, since both teach alternate conventional storage assembly structure, thereby providing structure as claimed. In regard to vertically tapered support ribs on the inside and outside surfaces of the sides, and tapered frames, it would have been an obvious matter of design choice to provide the support ribs and the frames being vertically tapered, since applicant has not disclosed the criticality of having the ribs and frames being tapered, and it appears that the ribs and frames of Rabinovitz, as modified, would perform equally as well.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen, Slov et al, Landsberger et al, Schenker et al, Liu, Pagelow et al, Ray, Cugley et al, Bohm, Thurman, Schafer, and Hasuika all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

Art Unit: 3637

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

HVT *HVT*
January 13, 2003

Jose V. Chen
JOSE V. CHEN
PRIMARY EXAMINER